

SENATE, No. 1377

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Permits new cigar lounges to be opened under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain cigar lounges and amending P.L.2005,
2 c.383.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.2005, c.383 (C.26:3D-59) is amended to
8 read as follows:

9 5. The provisions of this act shall not apply to:

10 a. (1) any cigar bar or cigar lounge that, in the calendar year
11 ending December 31, 2004, generated 15% or more of its total
12 annual gross income from the on-site sale of tobacco products and
13 the rental of on-site humidors, not including any sales from vending
14 machines, and is registered with the local board of health in the
15 municipality in which the bar or lounge is located. The registration
16 shall remain in effect for one year and shall be renewable only if:

17 **[(1)]**

18 (a) in the preceding calendar year, the cigar bar or lounge
19 generated 15% or more if its total annual gross income from the on-
20 site sale of tobacco products and the rental of on-site humidors, and

21 **[(2)]**

22 (b) the cigar bar or cigar lounge has not expanded its size or
23 changed its location since December 31, 2004;

24 (2) (a) any cigar lounge that is registered by the local board of
25 health in the municipality in which the lounge is located pursuant to
26 this paragraph.

27 (b) The governing body of a municipality may, by ordinance,
28 permit a certain number of cigar lounges to open and operate within
29 the municipality. Upon adoption of such ordinance, a prospective
30 cigar lounge may apply to the local board of health for such
31 registration. The local board of health shall not grant an application
32 for registration pursuant to this subparagraph unless the registration
33 provides that:

34 (i) no food or alcoholic beverages shall be sold or served in the
35 cigar lounge, except in the case of private parties or other duly
36 permitted events that are not open to the general public;

37 (ii) the cigar lounge shall not be located within a bar, restaurant,
38 or other establishment in which the principal business is the sale of
39 food or alcoholic beverages for consumption anywhere on the
40 premises;

41 (iii) the entrance to the cigar lounge shall be distinct from any
42 other establishment and accessible directly by the public;

43 (iv) the cigar lounge shall be equipped with an exhaust system
44 appropriate to ensure worker and customer safety and to maintain
45 breathable air quality in the cigar lounge or other establishment; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (v) the cigar lounge shall not permit the use of any hookah to
2 smoke tobacco or non-tobacco products anywhere on the premises.
- 3 (c) The registration of a cigar lounge pursuant to this paragraph
4 shall remain in effect for one year and shall be renewable only if:
- 5 (i) in the preceding calendar year, the cigar lounge generated
6 15% or more of its total annual gross income from the on-site sale of
7 tobacco products and the rental of on-site humidors;
- 8 (ii) the cigar lounge continues to satisfy all the requirements of
9 the initial grant of an application for registration set forth in
10 subparagraph (b) of this paragraph;
- 11 (iii) the filter of the exhaust system has been replaced; and
- 12 (iv) the cigar lounge has not expanded its size or changed its
13 location during the preceding registration period.
- 14 (d) If a cigar lounge fails to have its registration renewed after
15 one year, its owner shall not be permitted to register another cigar
16 lounge.
- 17 (e) For the purposes of this paragraph:
- 18 "Establishment" means a place of business, commerce or other
19 service-related activity, whether public or privately-owned or
20 operated on a for-profit or nonprofit basis;
- 21 "Hookah" means a water pipe that is used to smoke tobacco or
22 non-tobacco products by drawing the smoke through water and into
23 an attached hose for inhalation;
- 24 b. any tobacco retail establishment, or any area the tobacco
25 retail establishment provides for the purposes of smoking;
- 26 c. any tobacco business when the testing of a cigar or pipe
27 tobacco by heating, burning or smoking is a necessary and integral
28 part of the process of making, manufacturing, importing or
29 distributing cigars or pipe tobacco;
- 30 d. private homes, private residences and private automobiles;
31 and
- 32 e. the area within the perimeter of:
- 33 (1) any casino as defined in section 6 of P.L.1977, c.110
34 (C.5:12-6) approved by the Casino Control Commission that
35 contains at least 150 stand-alone slot machines, 10 table games, or
36 some combination thereof approved by the commission, which
37 machines and games are available to the public for wagering; and
- 38 (2) any casino simulcasting facility approved by the Casino
39 Control Commission pursuant to section 4 of P.L.1992, c.19
40 (C.5:12-194) that contains a simulcast counter and dedicated seating
41 for at least 50 simulcast patrons or a simulcast operation and at least
42 10 table games, which simulcast facilities and games are available
43 to the public for wagering.
- 44 (cf: P.L.2005, c.383, s.5)
- 45
- 46 2. The Commissioner of Health shall adopt rules and
47 regulations necessary to effectuate the purpose of this act pursuant

1 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
2 1 et seq.).

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4 3. This act shall take effect on the first day of the seventh
5 month next following the date of enactment, but the Commissioner
6 of Health may take such anticipatory administrative action in
7 advance thereof as shall be necessary for the implementation of this
8 act.

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STATEMENT

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This bill would authorize a municipality to adopt an ordinance allowing certain new cigar lounges within the municipality that are exempt from the provisions of the "New Jersey Smoke-Free Air Act." The ordinance would set forth how many such lounges may open and operate within the municipality. If a municipality adopts such ordinance, a prospective cigar lounge would have to apply to the local board of health in the municipality for a registration to open and operate in the municipality. The local board of health may only grant such application if the lounge will: not sell or serve food or alcoholic beverages, except at certain private events not open to the public; not be located within a bar or restaurant; have an entrance distinct from any other establishment; be directly accessible by the public; be equipped with an exhaust system appropriate to ensure worker and customer safety; and not permit the use of hookahs. Under current law, only a cigar bar or lounge that opened before December 31, 2004 could be registered with the local board of health, and be exempted from the provisions of the "New Jersey Smoke-Free Air Act."

The bill requires a new cigar lounge to renew its registration after one year, and each year thereafter. The local board of health may only renew a registration if the cigar lounge generates 15 percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, continues to comply with all the requirements of the initial registration, replaces the filter of the exhaust system, and does not expand its size or change its location. If a cigar lounge fails to have its registration renewed, its owner would not be permitted to register another cigar lounge.

The bill shall take effect on the first day of the seventh month next following the date of enactment, but the Commissioner of Health may take any anticipatory administrative action in advance that is necessary for implementation.